

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:08CR112
)	
v.)	
)	
GARY R. HOGAN,)	ORDER
)	
Defendant.)	
_____)	

This matter is before the court on the defendant's motion to vacate under 28 U.S.C. § 2255, Filing No. 36 and motion for leave to proceed in forma pauperis, Filing No. 37. In the motion to vacate, the defendant challenges his sentence and argues for a sentence reduction by reason of changes in sentencing law and amendments to the Guidelines that relate to crack cocaine. The motion to vacate is directed at the defendant's original sentence. Filing No. 22, Judgment. Pursuant to the government's motion under Fed. R. Crim. P. 35, the defendant's sentence was reduced. See Filing No. 40, Amended Judgment. Accordingly, his motion to vacate has been rendered moot.

IT IS ORDERED that the defendant's motion to vacate under 28 U.S.C. § 2255 (Filing No. 36) and motion for leave to proceed in forma pauperis (Filing No. 37) are denied as moot without prejudice to refiling with respect to the defendant's new sentence.

DATED this 27th day of July, 2010.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge